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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,526	12/27/2001	Andreas Magnussen	10559-634001	1660
20985	7590	05/04/2006	EXAMINER	
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			CHUNG, JI YONG DAVID	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,526	Applicant(s) MAGNUSSEN, ANDREAS	
	Examiner Ji-Yong D. Chung	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Remarks

1. Applicant's arguments and amendments filed on February 23, 2006 have been carefully considered but they are deemed moot in light of new grounds of rejection, set forth in the remainder of the instant Office action.

Telephone Interview

2. The Office will attempt to contact the applicant, in order to advance the prosecution, after further review of the instant case. Should the Office not contact the applicant within what the applicant deems "reasonable period," the applicant is encouraged to contact the Office.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-34 and 37** are rejected under 35 U.S.C. 102(e) as being anticipated by Polizzi et al (Pub. No. US 2002/0052954, Polizzi hereinafter).

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With reference to **claim 1**, Polizzi shows an apparatus for creating a system comprising:

a first agent [See Repository (item 235), job server (item 230), and event server (item 215) in Fig. 2. See paragraph 0039];

a second agent connected to the first agent to receive and transmit events and data [See Network server 105 in Fig. 2. The second agent ('Network server') functions as a conduit between the user and the Repository / event server. The outgoing "events" include distribution notification (See paragraph 0042). The incoming events are user requests (e.g., for jobs). See Fig. 2, paragraph 0026 and 0029. See paragraph 0030 for how the user accesses information on Repository. Note that any information a user accesses must travel through the "second agent" (Network server)];

a processing agent to process a protocol, the processing agent being connected to the first agent [See knowledge server and service broker in Fig. 2. See item 120];

the processing agent being configured to send events to the first agent upon a change in the data being transmitted, the one or more originating at the processing agent [The processing agent ('service broker') sends jobs to job server 230 (part of a "first agent"). See paragraph 0098. Note that request to schedule a job (i.e., events) starts at the service broker, and thus originates at the "processing agent."

With reference to **claim 2**, Polizzi shows *the first agent is configured to monitor the data being transmitted to and received from the processing agent* [Any data that is send to and from the Repository is also 'monitored' in the sense that any communication interface does (e.g., input

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and output bytes are accounted for). Notice that the Repository sends data and events ('jobs') to and from the service broker. See paragraph 0023 and 0024].

With reference to **claim 3**, Polizzi shows *an event system coupled to the processing agent to store the events in the event system*. See Fig. 2. See paragraph 0098.

With reference to **claim 4**, Polizzi shows *that the first agent includes an algorithm for flow control for the connections*. Event server and Repository have algorithm (method for dispatching) for routing jobs to job server or to service broker. See paragraphs 0099 and 0100. (Also note that if the flow control can refer to the flow control of packets (TCP), then the feature would either be inherent (if the local network were TCP) or would be obvious in light of implementing local TCP network.)

With reference to **claim 5**, Polizzi shows *that the processing agent comprises a Secure Sockets Layer (SSL) system*. See paragraph 0076. The search server or the service broker uses SSL.

With reference to **claim 6**, Polizzi shows *the processing agent comprises a Server Load Balancing (SLB) system*. See paragraph 0036 for load balancing, which is provided by the service broker ("processing agent.")

With reference to **claim 7**, Polizzi shows *that the processing agent comprises an Extended Markup Language (XML) system*. See paragraph 0078. The knowledge server uses XML.

With reference to **claim 8**, Polizzi that *the events include at least one of an event type identification, a Transmission Control protocol (TCP) pointer, a controller handle, a controller length, and a controller prefetch*. Note the Markush type limitation. ‘Properties’ in Polizzi is the “event type.” See paragraph 0060. For example, a job in the parameter list can denote event type (i.e., events that are assigned to execute a particular job).

With reference to **claim 9**, Polizzi *show that the data stored in the first agent includes a header and a data portion*. See paragraph 0039 for type of objects stored in the Repository. All files have a header and a data portion. Note in addition that each object has MIME type, which maybe considered a “header” description of an object.

With reference to **claim 10**, Polizzi shows that *the event system includes an event queue writer and event queue reader for the processing agent*. The ‘schedule’ of the event server is the event queue. While not explicitly shown, the event system has means for scheduling (i.e., placing objects on the schedule and reading them) and reading the schedule for the execution. The event server runs the schedule (and thus, the event queue reader and writer) *for service broker (“processing agent”)*

Claims 11-21 and 22-29 substantively incorporate all the limitations of claims 1-10, but in method form and in computer-product form, rather than in apparatus form. The reasons for the rejections of claims 1-10 apply to claims 11-21 and 22-29.

Claims 11-21 and 22-29 substantively incorporate all the limitations of claims 1-10, but in method form and in computer-product form, rather than in apparatus form. The reasons for the rejections of claims 1-10 apply to claims 11-21 and 22-29.

Claim 30 is similar to claim 1, except that it cites an additional limitation, which states, “wherein the first network agent controls transmission of data to the first processing agent at least in part based on the one or more events sent from the first processing agent.” In Polizzi’s system, the transmission of data from the Repository (a part of the first agent) depends on the events (i.e., job request) that are sent to the event server / job server (part of the first agent). Thus, the first network agent “controls” (selects requested object to send) depending on the particular object that is requested through the service broker.

With respect to **claim 31**, Polizzi shows the “second processing agent.” See paragraph 0036.

With respect to claim **32-34**, the feature (in Polizzi) which meet the limitations of claims 32 and 33 have been discussed with respect to claims 5-7.

Claim 37 substantively incorporates all the limitations of claim 1, but in slightly different words. Also note that the use of the term packets, without specifying the level of TCP/IP stack, does not limit the claim substantively to obviate it from the same rejection under which claim is under.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 35 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Polizzi in view of Brown et al (Pat. No., 5,060,140, Brown hereinafter).

With reference to **claim 35**, Brown meets the limitation, the first agent is to *control a TCP receive window for performing flow control of the processing system*. Any TCP port, controls the “receive window” (duration of port open) for performing flow control.

Polizzi shows a system that does not specify that type of communication protocol it uses in the local network for system 120 in Fig. 2. Brown shows TCP/IP protocol.

It would have been obvious to one of ordinary skill in the art to use Polizzi’s system in TCP/IP communication protocol network (which would necessitate the use of communication

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interface with TCP/IP port and thus use “receive window”), because TCP/IP network is de facto standard in today’s network communication network protocol.

With reference to **claim 36**, Brown shows its limitation, the system of claim 1 in *which the data comprises Transmission Control Protocol packets*. Session data in TCP/IP environment is carried through TCP/IP packets. Note that HTTP in Polizzi, placed in TCP/IP environment, will communicate through sessions.

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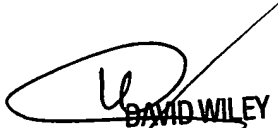
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ji-Yong D. Chung whose telephone number is (571) 272-7988. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ji-Yong D. Chung
Patent Examiner
Art Unit: 2143


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